

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

ANDREW J. SMITH,

Plaintiff,

V.

C.A. No. 18-370 WES

STATE OF RI FAMILY COURT; STATE OF
RI SUPREME COURT, et al.

Defendants.

ORDER

WILLIAM E. SMITH, Chief Judge.

The Court adopted Magistrate Judge Lincoln D. Almond's Report and Recommendation ("R&R", ECF No. 3) by Text Order on July 30, 2018. In the Court's July 30 2018 Text Order, it stated that there had been no objection to the R&R, but indeed there had been a timely Objection (see ECF No. 4).¹ Due to a clerical error, the Objection was not docketed until July 31, 2018.

The Court takes this opportunity to correct this error by considering Plaintiff's Objection. See Fed. R. Civ. P. 60(a); 11 Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 2854 (3d ed. 1998) ("Rule 60(a) permits the correction of clerical mistakes in judgments, orders, or other parts of the

¹ Plaintiff noted on the envelope that he mailed the Objection on "July, 23RD AT 12:00PM," and the Court received it on July 27, 2018. (See Obj. Ex. 2, ECF No. 4-2.)

record as well as the correction of errors arising from oversight or omission. . . . The power may be exercised at any time, either on motion or on the court's own initiative."); Am. Precision Vibrator Co. v. Nat'l Air Vibrator Co., 863 F.2d 428, 431 (5th Cir. 1989) (holding that court had authority pursuant to Rule 60(a) to fix result of clerical mistake stemming from delayed docketing).

And after doing so, the Court finds the objection to be without merit. As noted in the Report and Recommendation, this suit is not appropriately brought in federal court due to the domestic relations exception to federal jurisdiction; the Rooker-Feldman abstention doctrine; and the absence of a right to a jury trial in a divorce proceeding under the United States Constitution. (See R&R 3-4; see also Report and Recommendation, Smith v. Smith, C.A. No. 18-092-JJM (D.R.I. Mar. 6, 2018), ECF No. 3.) Therefore, the Court's Text Order dated July 30, 2018 ADOPTING Magistrate Judge Almond's Report and Recommendation (ECF No. 3); GRANTING Motion for Leave to Proceed in forma pauperis (ECF No. 2); and DISMISSING the Complaint (ECF No. 1), stands as entered.

IT IS SO ORDERED.



William E. Smith
Chief Judge
Date: August 2, 2018